

Message Text

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TAGS: AORG, NATO

SUBJECT: NATO DIRECT HIRE OF US CITIZENS

REF: USNATO 04789, DTG 122232Z MAY 78

1. EVENTUAL OUTCOME OF CURRENT CONGRESSIONAL DELIB-

ERATIONS ON CHANGES IN U.S. TAX LEGISLATION AFFECTING
AMERICANS ABROAD IS NOT PREDICTABLE. HOWEVER, IT
IS ALMOST CERTAIN THAT SOME PART OR ALL OF NATO SALARY
WILL BE SUBJECT TO U.S. TAXES. WITH CONSTANTLY
INCREASING NATO SALARIES, ALL U.S. PERSONNEL ON NATO
PAYROLL WILL SOONER OR LATER BE SUBJECT TO U.S. INCOME
TAXES.

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2. THUS, IT APPEARS BEST TO ASSIGN U.S. NATIONALS
TO NATO EXCLUSIVELY UNDER THE 1953 AGREEMENT BETWEEN
THE U.S. GOVERNMENT AND NATO, I.E., BY SECONDING U.S.
GOVERNMENT EMPLOYEES TO NATO EFFECTIVE FY 1979 (OCTOBER 1,
1978). THIS WILL AVOID THE PROBLEM DESCRIBED IN PARA 1.
MISSION VIEWS ARE REQUESTED ON THE FOLLOWING:

A. IN ORDER TO ACCOMMODATE THIS CHANGE, ADDITIONAL MANPOWER SPACES MUST BE REQUESTED. THEREFORE,

YOU WOULD HAVE TO ADVISE THE DIRECTORATE FOR PERSONNEL AND SECURITY, WHS, ASAP, OF THE PROJECTED NUMBER OF SPACES REQUIRED, BY ORGANIZATION, FOR FY 1979. THIS PROJECTION WOULD COVER SPACES WHICH WE NORMALLY SECOND, AS WELL AS THOSE UNDER OR PROPOSED FOR DIRECT HIRE.

B. PERSONS APPOINTED LOCALLY, I.E., HIRED DIRECTLY, WOULD NOT OBTAIN CIVIL SERVICE STATUS BASED ON THESE APPOINTMENTS. APPOINTING AUTHORITIES WOULD BE THE SPECIAL SCHEDULE A AUTHORITY FOR DOD DEPENDENTS AND OVERSEAS LIMITED APPOINTMENTS FOR THE OTHERS.

C. U.S. CITIZENS APPLYING DIRECTLY TO NATO ORGANIZATIONS FOR EMPLOYMENT WOULD HAVE TO BE REFERRED TO THE ADMINISTRATIVE AGENT, SERVICING PERSONNEL OFFICE, FOR THAT ORGANIZATION. FOR NATO ORGANIZATIONS, WHOSE ADMINISTRATIVE AGENT IS THE DEPARTMENT OF ARMY, PER ENCLOSURE 1 OF DOD INSTRUCTION 2010.1, SERVICING WOULD BE ACCOMPLISHED BY THE NATO/SHAPE SUPPORT GROUP (US), CIVILIAN PERSONNEL OFFICE. SEPARATE ARRANGEMENTS WOULD HAVE TO BE DEVELOPED FOR THOSE NATO AGENCIES UNCLASSIFIED

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WHERE THE US ADMINISTRATIVE AGENT IS AIR FORCE OR NAVY. THESE ARRANGEMENTS WOULD EITHER (1) IDENTIFY SPECIFIC AIR FORCE OR NAVY OFFICES TO ACT AS PERSONNEL SERVICING CONTRACT POINTS, OR (2) DELEGATE THIS RESPONSIBILITY TO USSG. APPOINTMENTS (SECONDMENT) WILL BE MADE AT THE DIRECTION OF THE DIRECTOR, ADMINISTRATION/SECURITY/PERSONNEL, U.S. MISSION TO NATO. INTERNAL OPERATING PROCEDURES FOR PROCESSING OF PERSONNEL WOULD BE DETERMINED BY JOINT AGREEMENT BETWEEN THE U.S. MISSION AND THE APPROPRIATE ADMINISTRATIVE AGENTS.

D. THE PROVISIONS OF DOD INSTRUCTIONS 2010.1 AND 1404.8 WOULD APPLY.

3. THE ONLY OTHER ALTERNATIVE WE SEE THAT IS LEGALLY AVAILABLE WOULD BE A NEW AGREEMENT WITH NATO UNDER WHICH U.S. CITIZENS IN SPECIFIED GRADES WOULD BE HIRED DIRECTLY BY NATO WITH THE EXPRESS UNDERSTANDING THAT THEY WOULD BE SUBJECT TO U.S. TAXATION IF THEIR SALARIES AT THE START OF, OR IN THE COURSE OF, NATO EMPLOYMENT WERE 15,000 DOLLARS OR GREATER. SUCH

AN AGREEMENT IF APPROVED BY THE NAC WOULD REPRESENT
A "MODIFICATION" OF THE 1953 AGREEMENTS WITHIN THE
MEANING OF ARTICLE XIX OF THE OTTAWA AGREEMENT, LAST

SENTENCE, AND ARTICLE VII, PARAGRAPH 2 OF THE
MILITARY HEADQUARTERS PROTOCOL, LAST SENTENCE.
THIS LANGUAGE WOULD PROVIDE THE LEGAL AUTHORITY
FOR THE UNITED STATES TO TAX ITS NATIONALS UNDER
A NEW AGREEMENT. THERE IS A RISK OF COURSE THAT
OTHER COUNTRIES MIGHT ALSO DECIDE TO TAX THEIR
OWN NATIONALS DIRECTLY HIRED BY NATO, USING AS A
LEGAL BASIS THE US MODIFICATION AND THE CITED
LANGUAGE OF THE OTTAWA AGREEMENT AND THE MILITARY
HEADQUARTERS PROTOCOL. IT IS FOR THIS REASON THAT
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WE DO NOT FAVOR THIS SOLUTION.

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